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 PATRICIA L. HOUGH, M.D.;
 6 DAVID L. FREDRICK; and
 7 ASSOCIATION OF AMERICAN
 INTERNATIONAL MEDICAL
 8 GRADUATES, INC.

9 UNITED STATES DISTRICT COURT

10 DISTRICT OF NEVADA

11 ST. MATTHEW'S UNIVERSITY
 (CAYMAN) LTD., a Cayman Islands
 12 company,

13 Plaintiff,

14 v.

15 SABA UNIVERSITY SCHOOL OF
 MEDICINE FOUNDATION, a Netherland-
 16 Antilles company; MEDICAL UNIVERSITY
 OF THE AMERICAS, a St. Kitts & Nevis
 17 company; EDUCATION INFORMATION
 CONSULTANTS, INC., a Massachusetts
 18 corporation; EDUCATIONAL
 INTERNATIONAL CONSULTANTS, LLC,
 19 a Massachusetts limited liability company;
 PATRICIA L. HOUGH, M.D., an individual,
 20 and d.b.a. "Saba University School of
 Medicine"; DAVID L. FREDRICK, an
 21 individual; PANKAJ DESAI, M.D., an
 individual; ASSOCIATION OF AMERICAN
 22 ALVERSON, TAYLOR, MORTENSEN & SANDERS
 INTERNATIONAL MEDICAL
 GRADUATES, INC., a Nevada corporation,
 23 a.k.a. "aaimg@yahoo.com"; THOMAS
 MOORE, M.D. a.k.a.
 24 "presaaimg@hotmail.com" and
 "crocdoc2004@netzero.net," an individual;
 25 SARAH B. WEINSTEIN a.k.a.
 "execsecaaimg@hotmail.com," an individual;
 26 RACHAEL E. SILVER, an individual; and
 27 DIEDRE MOORE, an individual,

28 Defendants.

Case No.: CV-S-05-0848-RCJ (LRL)

**REPLY MEMORANDUM IN SUPPORT
 OF MOTION OF PATRICIA L. HOUGH
 TO REMOVE DEFAULT
 OF SARAH WEINSTEIN, RACHAEL
 SILVER, DIEDRE MOORE
 AND THOMAS MOORE, M.D. AND IN
 OPPOSITION TO PLAINTIFF'S CROSS-
 MOTION FOR COSTS AND FEES AND
 FOR ORDER REQUIRING ATTORNEY
 REINMILLER TO SERVE AS AAIMG
 DEFENDANTS' COUNSEL OF RECORD**

REPLY MEMORANDUM IN SUPPORT OF
MOTION OF PATRICIA L. HOUGH TO REMOVE DEFAULT
OF SARAH WEINSTEIN, RACHAEL SILVER, DIEDRE MOORE
AND THOMAS MOORE, M.D. AND IN OPPOSITION TO PLAINTIFF'S CROSS-
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REINMILLER TO SERVE AS AAIMG DEFENDANTS' COUNSEL OF RECORD

____COME NOW Defendants PATRICIA L. HOUGH, M.D., DAVID L. FREDRICK and ASSOCIATION OF AMERICAN INTERNATIONAL MEDICAL GRADUATES, INC. and hereby file their Reply Memorandum in Support of Motion of Patricia L. Hough to Remove Default of Sarah Weinstein, Rachael Silver, Diedre Moore and Thomas Moore, M.D. and in Opposition to Plaintiff's Cross-Motion for Costs and Fees and for Order Requiring Attorney Reinmiller to Serve as AAIMG Defendants' Counsel of Record as follows:

ARGUMENT

I. Based On Plaintiff's Pleadings Patricia Hough Properly Answered On Behalf Of The AAIMG Defendants.

At issue is whether this Court should remove the default entered against Defendants Sarah Weinstein, Richard Silver, Diedre Moore and Thomas Moore, M.D. ("the Fictitious Individuals.") The Amended Complaint specifically alleges that Sarah Weinstein, Richard Silver, Diedre Moore and Thomas Moore, M.D. are fictitious. (Amended Complaint at ¶¶ 12, 52, 54, 55, 65.) Plaintiff could not have expected an answer from or a valid judgment against defendants it alleges are fictitious. This is not the situation where the parties are "Jane or John Does," because they are ALVerson, Taylor, Mortensen & Sanders unknown; these parties are allegedly fictitious and are alleged not to exist. Individuals who do not exist obviously cannot file an answer and a judgment against them would be a nullity since they do not exist.

While Plaintiff alleges that Defendants Patricia Hough, David Fredrick and/or Pankaj Desai created the Fictitious Individuals (Amended Complaint at ¶ 12), at this time only Defendant Hough has filed an answer. Fredrick and Desai filed motions to dismiss for lack of personal jurisdiction

1 which are pending and as a result have not answered. Patricia Hough appropriately answered the
 2 allegations against the Fictitious Individuals because she is the only person who currently faces
 3 liability based upon the claims against the Fictitious Individuals given the state of the pleadings at
 4 this point.
 5

6 In their opposition to remove the default, Plaintiff claims that Hough lacks standing to answer
 7 on behalf of the Fictitious Individuals and to move to remove the default. However, as an alleged
 8 alter ego, Patricia Hough stands to be liable for damages if the Fictitious Individuals are held liable
 9 and she is found to be their creator and alter ego. Thus, Hough clearly had standing to answer and
 10 to move to remove the default because it was essential for her to answer on behalf of the Fictitious
 11 Individuals to avoid the potentially negative ramifications on her of a default against them.
 12

13 This is also not a situation where a party is answering solely on behalf of another party to
 14 preserve that party's rights as argued by Plaintiff. Rather Hough is answering to protect her own
 15 rights because she allegedly created the Fictitious Individuals and if she is found to have done so she
 16 could be responsible for any judgment against them.
 17

18 **II. Attorney Reinmiller Should Not Be Required To Represent The** 19 **Interest Of The Fictitious Individuals.**

20 As established by the affidavit of Attorney Reinmiller, he has never spoken with or been in
 21 contact with the so-called Fictitious Individuals. Even if they exist, which plaintiff claims is not the
 22 case, they have never contacted him to represent them. He has never agreed to represent them. He
 23 has never appeared on their behalf nor agreed to appear on their behalf and he does not want to
 24 represent them. Because he has never been in contact with any of them, he has never been able to
 25 determine if representing each or any of them would create a conflict of interest with his clients
 26 Hough and AAIMG. Cf. Hernandez v. State, 619 P.2d 1214 (Nev. 1980).
 27

28 Attorney Reinmiller filed an answer on behalf of Patricia Hough because she allegedly

1 created the Fictitious Individuals and could be held personally responsible for the conduct alleged
 2 against them. Attorney Reinmiller's representation of Hough and AAIMG does not make him the
 3 attorney for any other individual allegedly associated with AAIMG. If that were the case, then an
 4 attorney representing a corporation could be forced to represent each of its individual officers, in
 5 their individual capacities. That is clearly not the law. Thus, this Court should deny Plaintiff's
 6 Motion that Attorney Reinmiller be required to represent the Fictitious Individuals.
 7

8 **III. Plaintiff Is Not Entitled To An Award Of Fees Or Costs.**

9 Defendant's Motion to Remove Default is clearly warranted in law and fact. Based on the
 10 allegations of Plaintiff's Amended Complaint and as explained above, Attorney Reinmiller
 11 appropriately filed the Answer and Joinder to Motion Dismiss on behalf of the Fictitious Individuals.
 12 Since, as explained above, Patricia Hough is the only person who has standing at this point to answer
 13 for the Fictitious Individuals, she appropriately did so. However, this Court entered default against
 14 the Fictitious Individuals without any of the Defendants having an opportunity to be heard and that
 15 default should be removed because a judgment against fictitious entities would be a nullity. Plaintiff
 16 has cited no case to the contrary. Nor has Plaintiff shown any basis to an entitlement to fees and
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1 costs pursuant to 28 U.S.C. 1927, or any other rule of law, where as here Attorney Reinmiller
2 filed an appropriate pleading designed to protect his client's rights.
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4 DATED this 5th day of September, 2006.

5 ALVERSON, TAYLOR,
6 MORTENSEN & SANDERS

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